

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

PRISM TECHNOLOGIES LLC,	)	Case No. 8:08-CV-196
	)	
Plaintiff,	)	<b>PAYPAL’S MOTION TO DISMISS,</b>
	)	<b>STAY, OR TRANSFER PURSUANT TO</b>
v.	)	<b>28 U.S.C. § 1404(a) AND REQUEST FOR</b>
	)	<b>ORAL ARGUMENT</b>
PAYPAL, INC.,	)	
	)	Hon. Laurie Smith Camp
Defendant.	)	
	)	

**TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:**

**COMES NOW** defendant and counter-claimant PayPal, Inc. (“PayPal”), and hereby moves that this Court dismiss or stay this action pending a final resolution of another action filed by Prism Technologies LLC (“Prism”) against VeriSign, Inc. (“VeriSign”) in this district (*Prism Technologies LLC v. VeriSign, Inc.*, Case No. 8:08-CV-195 (D. Neb.) (hereinafter “the VeriSign Action”), or, in the alternative, to transfer this action to the Northern District of California pursuant to 28 U.S.C. § 1404(a).

PayPal requests that the Court dismiss or stay this action based on the “Customer Suit Exception” to the first-to-file rule, in view of the fact that VeriSign is PayPal’s exclusive supplier of the accused “security certificates” used in PayPal’s customer operations, and VeriSign has filed counterclaims in the VeriSign Action seeking declaratory judgment that neither VeriSign nor its customers, including PayPal, infringe the patent asserted in this case and that the patent is invalid. Thus, the VeriSign Action will resolve all issues raised by Prism’s complaint in this case. If the Court declines to stay or dismiss this case, but does decide to grant VeriSign’s motion to transfer the VeriSign Action to the Northern District of California, PayPal respectfully asks that the Court transfer this case to the Northern District of California as well.

This motion is based upon the Memorandum of Points and Authorities and the Index of Evidence and accompanying exhibits in support thereof, each of which are concurrently filed herewith, the pleadings, records, and files in this action, any reply papers that may be filed, and upon such other and further evidence and argument as may be properly presented prior to and at the hearing on the Motion.

Pursuant to NECivR 7.1(d), PayPal also respectfully requests that the Court grant one hour of oral argument so that the parties may address any questions the Court may have regarding the issues addressed by this Motion.

Date: August 4, 2008

PAYPAL, INC., Defendant.

By: s/Michael K. Huffer

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ATTORNEYS FOR DEFENDANT  
PAYPAL, INC.

### **CERTIFICATE OF SERVICE**

I hereby certify that on August 4, 2008, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

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s/Michael K. Huffer